

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

BALMUCCINO, LLC, a California limited
liability company,

Plaintiff,

v.

STARBUCKS CORPORATION, a
Washington corporation,

Defendant.

Case No. 22-cv-1501 JHC

ORDER GRANTING DEFENDANT’S
MOTION TO DISMISS

This matter comes before the Court on Defendant’s Motion to Dismiss. Dkt. # 12. The Court has considered the materials submitted in support of the motion, as well as the balance of the case file and the applicable law.

Apparently, Plaintiff attempted to respond to the motion by filing a First Amended Complaint. Dkt. # 15. But that pleading was filed one court day after the deadline for doing so. *See* Fed. R. Civ. P. 15(a)(1)(B). Accordingly, the Court STRIKES the First Amended Complaint.

The motion to dismiss appears to have merit. And technically, it is unopposed. But on this record—i.e., the missing of a deadline by one court day—the Court does not believe it is in the interest of justice to dismiss the matter with prejudice. Accordingly, the Court GRANTS the

1 motion and DISMISSES this matter without prejudice. Plaintiff may move for leave to file an
2 amended complaint; Plaintiff must do so by Thursday, March 2, 2023.

3 DATED this 21st day of February, 2023.

4
5 

6 John H. Chun
7 UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26